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USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 8/10/2021

August 9, 2021

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**BY ECF**

Honorable Victor Marrero  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Kwan v. Fusaro, et al.*, Case No. 21-cv- 06127-SLC-VM (S.D.N.Y.)  
(Closed), *Consolidated With* Case No. 21-cv-04390-SLC-VM (S.D.N.Y.)

Dear Judge Marrero:

We represent Nominal Defendant Array Technologies, Inc. (“Array”) in connection with the above-referenced shareholder derivative action (the “*Kwan* Action”). Pursuant to Section I.F. of Your Honor’s Individual Practices, we write on behalf of all Defendants who were served in the *Kwan* Action on July 20, 2021 (the “Served Defendants”)<sup>1</sup> to respectfully request that the deadline to respond to the complaint in the *Kwan* Action (the “Complaint”) be extended 14 days, from August 10, 2021 to August 24, 2021.<sup>2</sup> Plaintiff Wa Ping Kwan consents to the Served Defendants’ request.

The Served Defendants seek an extension for the purposes of efficiency and judicial economy. The requested extension would facilitate all Defendants’ ongoing negotiation with Plaintiff of a joint stipulation and proposed order for submission to the Court addressing certain issues affecting all Defendants’ response to the Complaint and management of this litigation, including but not limited to bifurcation of the derivative *Kwan* Action from the *Plymouth County*

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<sup>1</sup> Served Defendants include Array, ATI Investment Parent, LLC, Oaktree ATI Investors, L.P., Oaktree Power Opportunities Fund IV, L.P., Oaktree Power Opportunities Fund IV (Parallel), L.P., Oaktree Capital Management, L.P., and Oaktree Capital Group Holdings, L.P. See ECF Nos. 8–14.

<sup>2</sup> On July 21, 2021, the Court issued an order closing the *Kwan* Action and consolidating it with a related shareholder class action assigned to Your Honor, *Plymouth County Retirement Association v. Array Technologies, Inc., et al.*, No. 21-cv-04390-SLC-VM (S.D.N.Y.) (the “*Plymouth County* Shareholder Class Action”). See ECF No. 15. The Court’s consolidation and closure of the *Kwan* Action notwithstanding, the Served Defendants are requesting an extension of time to respond to the Complaint out of an abundance of caution.

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Honorable Victor Marrero

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Shareholder Class Action and consolidation of the *Kwan* Action with a later-filed and related derivative action that is currently pending before Judge Castel, *Ho Han v. Fusaro, et al.*, No. 21-cv-06509-SLC-PKC (S.D.N.Y.) (the “*Ho Han* Action”).<sup>3</sup>

This is the Served Defendants’ first request for an extension of this deadline. The requested extension does not affect any scheduled dates set forth in a Court-approved Case Management Plan or Scheduling Order, proposed Revised Case Management Plan, or revised Scheduling Order, as no such orders have yet been issued in this case.<sup>4</sup>

In light of the foregoing, the Served Defendants respectfully request that the Court extend the Served Defendants’ deadline for responding to the Complaint until August 24, 2021, so that the parties have additional time to negotiate a joint stipulation and proposed order for presentation to the Court.

The parties are available to discuss the relief requested above at the Court’s convenience.

Respectfully Submitted,

By: /s/ Lisa H. Bebchick

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The request for extension is granted. The deadline for the Served Defendants, as defined herein, to respond to the Complaint is extended until 8/24/2021.

**SO ORDERED.**

8/10/2021

**DATE**

  
VICTOR MARRERO, U.S.D.J.

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efendant Array  
TI Intermediate Holdings,

It stating that the *Ho Han* Action (assigned to Judge Castel) is related to the *Kwan* Action (assigned to Court Honors) in that both actions “concern the same or similar underlying facts and events during a similar period of time” and “name the same or similar defendants.” See ECF No. 3, 21-cv-06509-SLC-PKC (S.D.N.Y. July 30, 2021). In the same statement, Plaintiff noted that the *Kwan* Action, while “technically closed” after consolidation with the *Plymouth County* Shareholder Class Action, has claims that are related to those brought in the *Ho Han* Action. *Id.*

<sup>4</sup> In making this letter motion, the Served Defendants reserve all rights, claims, defenses, and arguments that are available or may become available in the *Kwan* Action, including the right to move for dismissal or transfer on any ground (including, but not limited to, jurisdictional grounds and the ground of *forum non conveniens*).